

REMARKS

Claims 1-15 are currently pending, with claims 1 and 12 being in independent form. Claims 1, 7 and 12 have been amended. Support for the amendment to independent claims 1 and 12 may be found, for example, in Fig. 1 of the disclosure and paragraph [0006]. Claim 7 is amended to make an editorial correction. No new matter has been added. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 1-8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over JP 11-237274 (“*Kato*”) in view of U.S. Patent No. 6,599,096 (“*Totten*”). Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Kato* in view of *Totten*, and further in view of U.S. Patent No. 5,765,435 (“*Grötschel*”). For the following reasons, reconsideration and withdrawal of these rejections are respectfully requested.

Independent Claim 1

Independent claims 1 has been amended to recite, *inter alia*, “wherein the installation opening has a diameter larger than the width of the support and less than the combination of the width of the support and the width of the guide part that protrudes laterally beyond the side of the support”. The combination of the cited art fails to teach or suggest this expressly recited limitation of now amended independent claim 1.

The Examiner (at pg. 2 of the Office Action) has acknowledged that *Kato* fails to teach or suggest “the tank having an installation opening 16 allowing for installation of sensor”, and cites *Totten* to provide this feature. Applicants, however, disagree that the combination of *Kato* and *Totten* achieves now amended independent claims 1.

According to the Examiner, “[i]t would have been obvious to one of ordinary skill in the art at the time of invention to have used such a tank with such an opening in conjunction with the

apparatus of Kato to allow for easier installation and removal of the sensor if it was to fail or require maintenance”. Applicants disagree.

Totten relates to “a steam driven pump for draining fluid from a container” (see col. 2, lines 47-49). According to *Totten*, the steam driven pump includes a container or tank 12 that “includes a mounting flange 16 disposed about a generally cylindrical opening 17” (see col. 2, lines 42-43 and lines 47-49). *Totten* (col. 2, lines 58-53) explains that “[a] cap flange 20 typically includes a steam inlet port 24 connected to a source of steam (not shown)” and that “an annular seal 22 is disposed between the cap flange 20 and the mounting flange 16 and provides a seal therebetween”.

However, there is no description whatsoever in *Totten* of an installation opening having the expressly recited configuration of applicants’ claimed filling level sensor, i.e., “a diameter larger than the width of the support and less than the combination of the width of the support and the width of the guide part that protrudes laterally beyond the side of the support,” as recited in now amended independent claims 1 and 12. There is no structure in *Totten* corresponding to this expressly recited limitation. The combination of *Kato* and *Totten* thus fails to achieve the filling level sensor recited in now amended independent claim 1.

Independent Claim 12

Independent claim 12 includes limitations similar to the above limitations of independent claim 1 and should be allowable for the same reasons as is independent claim 1.

Independent claim 12 further recites “the installation opening and the guide curve together define an angle through which the lever arm is pivoted as a function of the position of the filling level sensor in relation to the fuel tank during the installation.” Support for this limitation is found in paragraph [0006] of the published version of the present application.

The Examiner refers to reference number 13b as the claimed contour. However 13b is part of a detection object 13, the position of which is detected. There is no teaching or suggestion that the part 13b operates with the side of an installation opening to define an angle through which the lever arm is pivoted during installation of the filling level sensor in the fuel tank. Accordingly, independent claim 12 is allowable for at least this additional reason.

Dependent Claim 9

The Examiner (at pg. 7 of the Office Action) has acknowledged that the combination of *Kato* and *Totten* fails to teach or suggest “a potentiometer configured for detecting the position of a float arm,” as recited in independent claim 9, and cites *Grötschel* to provide this feature. *Grötschel* fails, however, to teach or suggest the configuration of the installation opening as expressly recited in now amended independent claim 1. *Grötschel* relates to “a fuel level indicating apparatus in which a precision support for the float lever is provided which is simple in construction and enables easy assembly and disassembly thereof” (see col. 1, lines 29-32). However, there is nothing in *Grötschel* regarding an installation opening which has a diameter larger than the width of the support and less than the combination of the width of the support and the width of the guide part that protrudes laterally beyond the edge of the support, as recited in now amended independent claim 1. The combination of *Kato*, *Totten* and *Grötschel* thus fails to achieve the filling level sensor recited in now amended independent claim 1, because *Grötschel* fails to provide what *Kato* and *Totten* lack. Dependent claim 9 is therefore also patentable over the combination of the cited art based on its dependency on independent claim 1.

In view of the patentability of independent claims 1 and 12, dependent claims 2-11, 13 and 14 are also patentable over the prior art for the reasons set forth above, as well as for the additional recitations contained therein.

In view of the foregoing, reconsideration and withdrawal of all the rejections under 35 U.S.C. §103(a) are in order, and a notice to that effect is requested.

Based on the foregoing remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

Should the Examiner have any comments, questions, suggestions, or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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